

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: John M. Hammer et al.)	
)	Art Unit: 2135
Application No.: 09/685,285)	
)	Examiner: Leynna A. Ha
Filed: October 10, 2000)	
)	Confirmation No.: 4449
For: Method and System for Creating a)	
Record for One or More Computer)	Attorney Docket No. 05456.105008
Security Incidents)	

REPLY BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Monday, December 10, 2007

Sir:

Responsive to the Examiner's Answer of October 9, 2007 which contains a New Ground of Rejection in the above referenced application, the Appellants request that the appeal be maintained and the Appellants hereby submit this Reply Brief under 37 C.F.R. § 41.37(c)(1)(vii) to address each new ground of rejection presented in the Examiner's Answer noted above.

I hereby certify that this correspondence is being electronically transmitted to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on December 10, 2007.

/SPW/

Steven P. Wigmore, Reg. No. 40,447

Status of Claims

Claims 1-9 and 11-65 stand finally rejected and are on appeal. Claim 10 has previously been canceled and is not on appeal.

Grounds of Rejection to be Reviewed on Appeal

The following issues are presented on appeal:

Whether Claims 1-9, 11-50, and 56-65 are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Nos. 6,298,445 to Shostack, et al. (“*Shostack*”), 6,453,345 to Trcka (“*Trcka*”), and 6,070,190 to Reps et al. (“*Reps*”); and

Whether Claims 51-55 are unpatentable under 35 U.S.C. § 103(a) over Shostack in view of Reps.

Argument

The Appellants respectfully submit that this Reply Brief is NOT A SUBSTITUTE for Appellants' Brief that was submitted on July 6, 2007. In other words, the Appellants are requesting the Board of Appeals to consider both this Reply Brief and their Brief of July 6, 2007 when rendering their decision on this case.

Since the Appellants are requesting that the Board of Appeals to consider this Reply Brief and the original Brief submitted on July 6, 2007 together, the Appellants have attempted to keep this Reply Brief very short in order to help expedite review of this case by the Board of Appeals.

Examiner's New Ground of Rejection is a Change in Position by the Examiner with Respect to the Order/Sequence in which the Board is to Consider the Examiner's Combination of Reps and Shostack

The Appellants note that on page 21, fourth numbered paragraph, in the Examiner's Final Office Action of March 20, 2007, the Examiner proposed the combination of Reps and Shostack to reject independent Claim 51 where Reps was the primary reference and Shostack was the secondary reference. Now, as set forth in the Examiner's new ground of rejection on page 23 of the Examiner's Answer of October 9, 2007, the Examiner has changed her position such that her primary reference is Shostack and her secondary reference is Reps.

In light of this mere change in the order of presentation of the references relied on by the Examiner, the Appellants believe that their supporting arguments in the Brief of July 6, 2007 are still valid since the Brief was prepared irrespective of the order of the presentation of the references. That is, the Brief of July 6, 2007 did not turn on or depend on the order in which the references were combined. It is the Appellants' position that it does not matter which order or sequence that one of ordinary skill in the art reviews these references. The Appellants believe that one of ordinary skill in the art would not find the claimed invention as anticipated or obvious in view of Shostack, Reps, and Trcka, alone or in combination.

Accordingly, the Appellants submit that the arguments presented in their Brief of July 6, 2007 are still valid for all claims, especially for Claims 1-9, 11-50, and 56-65 for which the Examiner has maintained her position with respect to her grounds set forth in her Final Office Action of March 20, 2007. The Appellants also believe that their arguments for Claims 51-55 in the Brief are still valid, but the Appellants have briefly restated them here in this Reply Brief to

be in compliance with 37 C.F.R. § 41.37(c)(1)(vii). The Appellants have also responded to a few remarks made by the Examiner in her answer that should help the Board of Appeals to identify and narrow the issues on this Appeal.

Independent Claim 51

In Examiner's Answer of October 9, 2007, the Examiner rejected independent Claim 51 as allegedly being obvious over *Shostack* in view of *Reps*. Appellants respectfully traverse this rejection.

In particular, Appellants respectfully submit that the Examiner has not established a *prima facie* case of obviousness with respect to independent Claim 51 because the cited documents, such as *Shostack* and *Reps*, fail to teach or suggest a method for selecting a computer that is strategically located relative to a source of a computer security incident comprising: (1) accessing a table comprising computer locations, Internet address ranges associated with the computer locations, and computer security threat procedure associated with the computer locations, (2) the computer security threat procedure comprising one or more steps for one of investigating and responding to one of suspicious computer activity comprising one or more attacks received from a network computer that occur prior to a computer security threat and an actual computer security threat, (3) the computer locations identifying devices that are able to perform computer security threat procedure associated with the computer security step information; (4) comparing a computer security threat procedure to be executed and a target Internet address with computer locations and Internet address ranges listed in the table; (5) determining if a match exists between an Internet address of a computer security incident and the Internet address ranges listed in the table; (6) automatically selecting a computer to execute the computer security threat procedure based upon the matching step, wherein the computer has a location and is capable of interacting with the Internet address of the computer security incident; and (7) storing a permanent record comprising the executed computer security threat procedure and result information, and corresponding date and time stamps

Shostack

As noted in the Appellants' Brief of July 6, 2007, *Shostack* is directed to a system for automatically providing enhancements to computer security software. (See Abstract). The enhancements include updated information regarding security vulnerabilities. The system receives an enhancement from a network and integrates the enhancement into the computer security software. Before the integration, the system performs a computer check to determine the integrity and the authenticity of the enhancement. The computer check can use cryptographic techniques such as digital signatures and Pretty Good Privacy (PGP) encryption. (See column 2, lines 30-48).

Reps

As noted in the Appellants' Brief of July 6, 2007, *Reps* describes technology that is in the field of network system service, and particularly to an end-user based application availability and response monitoring and alerting system. The technology described by *Reps* enables the monitoring of availability of response time or other desired performance metrics of an application program from the perspective of an end-user utilizing an application program over a distributed computing network. (See column 1, lines 24-31.)

The Proposed Reversal of the Combination: Fails to Teach Independent Claim 51

Irrespective of the order of their combination, one of ordinary skill in the art would recognize that the result of that combination does not teach the following as recited in independent Claim 51:

(A) A method for selecting a computer that is strategically located relative to a source of a computer security incident comprising:

(B) accessing a table comprising computer locations, Internet address ranges associated with the computer locations, and computer security threat procedure associated with the computer locations,

(C) the computer security threat procedure comprising one or more steps for one of investigating and responding to one of suspicious computer activity comprising one or more attacks received from a network computer that occur prior to a computer security threat and an

actual computer security threat.

The Appellants believe that one of ordinary skill in the art would find that the proposed combination of references does not provide any teaching of computer security threat procedures as described and defined in the claims.

The Examiner admits on page 35, third full paragraph, lines 15-16 that the Reps reference does not provide any teaching of computer security threat procedures. Specifically, the Examiner states: “Reps do not suggest the violations or computer security threats of a computer security system.” Given that admission, the Appellants also believe that the Examiner has admitted that one of ordinary skill in the art would not attempt the combination which she has proposed in her Final Office Action as well as her Examiner’s Answer.

Conclusion

In view of the arguments presented in this Reply Brief and the full Brief of July 6, 2007, Appellants respectfully request that the final rejection in this matter be vacated, and that this application be returned to the Examiner with instructions to enter a notice of allowance.

Respectfully submitted,
/SPW/
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